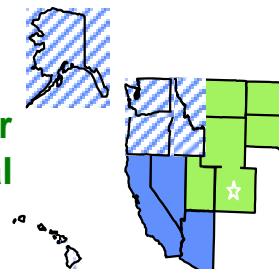




## U.S. Army Environmental Center Western Regional Environmental REGION X - AUGUST 1999



# WESTERN REGION REVIEW

This publication provides current information on significant regulatory developments and related information in the Federal Region X area (Alaska, Idaho, Oregon, and Washington) that affect U.S. Army activities and operations. We appreciate your feedback and encourage suggestions for future discussion, or comments. Please contact us at U.S. Army Environmental Center, Western Regional Environmental Office, ATTN: SFIM-AEC-WR, Building 111, Commerce City, CO 80022-2108, commercial (303) 289-0125, DSN: 749-2125, FAX: (303) 289-0272, or e-mail: [redgerto@pmrma-emh1.army.mil](mailto:redgerto@pmrma-emh1.army.mil).

### REGIONAL UPDATES/ALERTS AVAILABLE ON THE INTERNET

Current and past issues of the *WESTERN REGIONAL REVIEW* for Regions VIII, IX, and X are available on the Internet at <http://aec.army.mil/prod/usaec/ro/western/updates/wupdates.htm>.

## FEDERAL REGULATORY DEVELOPMENTS

### Clean Air Act (CAA):

#### **EPA Announces Strategy to Reduce Air Toxins**

As part of the national air toxics program, the EPA has announced a strategy to reduce toxic air emissions in hundreds of areas across the country. Toxic air pollutants include those known or suspected to cause cancer or other serious health problems. The new strategy identifies 33 toxic air pollutants, such as benzene, mercury, and polychlorinated biphenyls (PCBs), that present the greatest threat to public health. This strategy, required by the CAA, includes goals to reduce cancer risks by 75 percent, to substantially reduce non-cancer risks, and to address areas where low-income and minority communities may be disproportionately affected by air toxic pollutants. The strategy outlines how the EPA will work in partnership with State, local and Tribal governments to monitor air toxic levels and develop plans and actions to reduce toxic air pollution. The strategy lists 13 new industrial categories targeted for reductions over the next five years. The final strategy will appear soon in the Federal Register, but can be accessed on the Internet at <http://www.epa.gov/ttn/uatw/urban/urbanpg.html> or by calling the EPA at (919) 541-5497.

#### **Revised Regulations Concerning Constructed or Major Restructured Sources**

On 27 December 1996, the EPA published a rule in the Federal Register implementing certain provisions in Section 112(g) of the CAA. After the effective date of that rule, all owners or operators of major sources of hazardous air pollutants (HAP) that are constructed or reconstructed are required to install maximum achievable control technology (MACT) (unless specifically exempted), provided they are located in a State with an approved Title V permit program. When no applicable federal emission limitation has been promulgated under Section 112(d), the CAA requires the permitting authority to determine a MACT emission limitation on a case-by-case basis. If the permitting authority has not yet established procedures for requiring MACT on constructed or reconstructed major sources by the required date, the rule provides that the EPA Regional Administrator will determine MACT emission limitations on a case-by-case basis for a period of up to one year. This action amends the rule governing constructed or reconstructed major sources, by providing a longer time period (up to 30 months) during which the EPA Regional Administrator may determine MACT emission limitations on a case-by-case basis, if the permitting authority has not yet

established procedures for requiring MACT on constructed or reconstructed major sources. This action is needed in order to ensure that major sources can obtain MACT determinations required for construction or reconstruction in those jurisdictions where permitting authorities require extra time to establish procedures to implement the Section 112(g) rule. This final rule amendment will be effective on 30 July 1999, unless the EPA receives adverse comments. Contact the EPA at (919)541-0102 for more information.

### **Endangered Species Act (ESA):**

#### **Proposal to Delist the Bald Eagle**

The U.S. Fish and Wildlife Service (FWS) proposes to remove the bald eagle (*Haliaeetus leucocephalus*) from the List of Endangered and Threatened Wildlife in the lower 48 States of the United States. Available data indicate that this species has recovered due in part to habitat protection and management actions initiated under the Endangered Species Act. It is also due to reduction in levels of persistent organochlorine pesticides such as DDT occurring in the environment. Section 4(g) of the ESA requires the FWS to monitor recovered species for at least 5 years following delisting. This rule describes the proposed post-delisting monitoring plan for bald eagles. Removal of the bald eagle as a threatened species under the ESA will not affect the protection provided under the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and many other state laws. Comments from all interested parties concerning the proposal to delist the bald eagle in the lower 48 States must be received by 5 October 1999. Comments from all interested parties on the collection of information from the public during the 5-year monitoring period will be considered if received on or before 7 September 1999. Comments may be sent to the FWS Internet site at <http://www.fws.gov/r3pao/eagle/> or by calling (309) 793-5800 x 524.

#### **Update on Listing Status of the Canada Lynx**

The FWS has extended the time to make a decision on the proposal to list the contiguous United States distinct population segment of the Canada lynx (*Lynx canadensis*) as a threatened species. The new deadline for final action on the proposed rule to list the contiguous United States population segment of the Canada lynx is extended from 8 July 1999, to 8 January 2000. The FWS will use the 6-month extension to obtain and review new information anticipated to be forthcoming in a scientific report on the Canada lynx from the U.S. Forest Service's Rocky Mountain Research Station. The FWS will reopen the public comment period to accept comment on the science report when it becomes available and will announce the dates of the new public comment period in the Federal Register. For additional information, contact the FWS at (406) 449-5225.

### **Resource Conservation and Recovery Act (RCRA):**

#### **Hazardous Waste Program Modified to Include Lamps**

The EPA announces a final rule that adds hazardous waste lamps to the federal list of universal wastes regulated under RCRA. Handlers of universal wastes are subject to less stringent standards for storing, transporting, and collecting these wastes. Data available to EPA indicate that many fluorescent and high intensity discharge (HID) lamps exhibit the toxicity characteristic (TC) for mercury because of the use of that compound in producing these lamps. Some HID and other types of lamps may also exhibit the TC for lead, principally because of the use of lead solder. Previously, generators of spent lamps that exhibited hazardous waste characteristics were subject to the RCRA Subtitle C hazardous waste management requirements. The EPA states that regulating spent hazardous waste lamps as a universal waste under 40 CFR Part 273 will lead to better management of these lamps and will facilitate compliance with hazardous waste requirements. The final rule is an attempt to streamline the Subtitle C management requirements for hazardous waste lamps. This final rule is effective on 6 January 2000. For additional information, contact the RCRA Hotline at (800) 424-9346, or view the rule on-line at the EPA's Internet site at <http://www.epa.gov/epaoswer/osw/hazwaste.htm#id>.

**Miscellaneous:****Final Rule Revises Administrative Enforcement Procedures**

The EPA has revised its Consolidated Rules of Practice, which are the procedures to assess administrative penalties, issue compliance or corrective action orders for violations of environmental regulations, and revoke, terminate or suspend certain permits. The EPA believes the revisions to the procedures will eliminate inconsistencies and uncertainties in administrative enforcement proceedings without compromising the regulated community's right to fair and impartial hearings. The revisions also include better, easy-to-understand language and provide for a more efficient resolution process. The new rule will appear in the Federal Register soon, and is available by calling (202) 564-2614 or via the Internet at <http://www.epa.gov/oeca/regstat2.html>.

**CONFERENCES AND SYMPOSIUMS**

- **31 August - 1 September 1999: West Coast Beach Conference - San Diego, CA.** The EPA is sponsoring a beach conference that will focus around key issues in beach water monitoring and public notification of beach advisories and closings. Topics will include microbial indicators of water quality, water quality standards, water quality monitoring and modeling, beach advisories and closings, and risk assessment and communication. For more information on conference agendas and registration, visit the Internet site at <http://www.epa.gov/ost/beaches/meeting.html>.
- **8-11 November 1999: Unexploded Ordinance (UXO) Conference - Wailea Resort, HI.** This conference will focus on field UXO issues including technology, equipment, risk management, quality control/assurance, material management, site restoration and reuse. Discussion, identification, and demonstration of ideas for immediate, near, and/or long term incorporation into the DoD's largest UXO project on Kaho'olawe are sought. Papers and demonstrations of a general nature to UXO field operations are also sought and encouraged. All conference attendees will be invited to visit the island of Kaho'olawe to view first-hand the site's environment and challenges to cleanup, restoration, and use. The U.S. Navy and Parsons-UXB Joint Venture will participate in the conference. Download registration materials from <http://www.efdpac.navfac.navy.mil/> or by calling (808) 474-0559 x 221.

**ALASKA*****Regulatory Developments*****Air Quality:**

- **Final Rule: Petition for Exemption from Diesel Fuel Sulfur Requirements.** The EPA is granting areas of Alaska served by the Federal Aid Highway System a temporary exemption from EPA's sulfur and dye requirements for highway diesel fuel until 1 January 2004. The EPA is not making a final decision at this time on Alaska's request for a permanent exemption. Additional time is needed to consider Alaska's request for a permanent exemption because of the need to coordinate the decision with an upcoming nationwide rule on diesel fuel quality, lead-time considerations, and fuel dyeing requirements of another federal agency. This decision is not expected to have a significant impact on the ability of Alaska's communities to attain the National Ambient Air Quality Standards for carbon monoxide or particulate matter, due to the limited contribution of emissions from diesel highway vehicles in those areas and the sulfur level currently found in highway vehicle diesel fuel used in Alaska. This final rule is effective as of 1 July 1999. For additional information, contact the EPA at (202) 564-9473.

**IDAHO*****Regulatory Developments*****Solid/Hazardous Waste:**

- **Immediate Final Rule: Hazardous Waste Management Program.** Under the Resource Conservation and Recovery Act (RCRA), the EPA may grant States Final Authorization to operate their hazardous waste management programs in lieu of the federal program. The EPA uses part 272 of Title 40 Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that are part of the authorized State program. The purpose of this action is to codify Idaho's authorized hazardous waste program in 40 CFR part 272. This rule incorporates by reference provisions of Idaho's hazardous waste statutes and regulations and clarifies which of these provisions are authorized and federally enforceable. Unless adverse written comments are received, the EPA's decision to incorporate by reference Idaho's authorized hazardous waste program will take effect. For additional information or to provide comment on the rule, contact the EPA at (206) 553-0256.

**OREGON*****Legislative Developments***

The 70<sup>th</sup> Legislature Assembly of the State of Oregon adjourned in late July 1999.

**House Bill 2176: Oregon Drinking Water Quality Act**

**Summary:** Conforms the Oregon Drinking Water Quality Act to changes in federal Safe Drinking Water Act. Increases civil penalty authorized for large watersystems from \$500 to \$1,000 for each day of violation. Amends definition of water system. Eliminates the exemption from operator certification for small water systems and systems supervised by a registered engineer.

**Status:** Introduced before the House on 21 January and referred to the Committee on Water and Environment. Passed out of Committee with amendments on 7 May. Passed the House on 13 May and transmitted to the Senate. Referred to the Senate Committee on Public Affairs on 17 May. Passed by the Senate on 30 June and the House on 1 July 1999. Transmitted to the Governor for his consideration.

**Outlook:** Look for the Governor to accept this bill.

**House Bill 2180: Environmental Proceedings**

**Summary:** Specifies standing requirements for an association or organization seeking judicial review of certain final orders of Oregon Department of Environmental Quality (ODEQ) or Environmental Quality Commission.

**Status:** Introduced before the House on 21 January and referred to the Committee on Judiciary on 26 January. A public hearing on the bill was held on 7 April. Passed the House on 15 April and transmitted to the Senate on 16 April. Referred to the Senate Committee on Judiciary where a public meeting will be held on 13 May. Passed the House on 25 June and the Senate on 28 June 1999. Transmitted to the Governor for his consideration.

**Outlook:** Look for the Governor to accept this bill.

**House Joint Memorial 1: Request for Federal Funding**

**Summary:** Requests that the President and Congress withhold funding for enforcement actions taken by the National Marine Fisheries Service in Oregon until Congress provides sufficient funds to assist the state in restoration of salmon.

**Status:** Introduced before the House on 13 January and referred to the Committee on Stream Restoration and Species Recovery. Adopted by the House and transmitted to the Senate on 20 April. Referred to the Senate Committee on Stream Restoration and Species Recovery on 21 April. Signed by the House Speaker and the Senate President on 17 June 1999. Filed with the Secretary of the State on the same day.

**Outlook:** The Legislature's feelings are still hurt over the federal action concerning salmon protection.

### ***Regulatory Developments***

No significant regulatory developments were noted for the State of Oregon during the reporting period.

<b>WASHINGTON</b>
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### ***Regulatory Developments***

#### **Water Quality:**

- **Proposed Rule: Wastewater Discharge Fees.** The Washington Department of Ecology (WDOE) proposes to amend the wastewater discharge fee rule (Chapter 173-224 WAC) to increase the annual permit fees for the Fiscal Years 1999-2000 biennium, and to create new permit fee categories for some previously unpermitted operations. The WDOE's Water Quality Advisory Committee will hold a series of public meetings throughout the State. Contact the WDOE at (206) 438-7039 for additional information.

#### **Endangered Species:**

- **Notice: Petition to List Eighteen Marine Fishes.** The National Marine Fisheries Service (NMFS) has received a petition to list 18 species of Puget Sound marine fishes and to designate critical habitat under the Endangered Species Act. The petitioned fishes include 1 herring, 1 cod, 1 hake, 1 pollock, and 14 rockfish species. The NMFS determines that the petition presents substantial scientific information indicating that the petitioned action may be warranted for seven of the species: Pacific herring, Pacific cod, Pacific hake, walleye pollock, brown rockfish, copper rockfish, and quillback rockfish. The NMFS solicits information and comments pertaining to these seven species in Puget Sound and seeks suggestions from the public for peer reviewers for the agency's review of the petitioned action. Information and comments on the action must be received by 20 September 1999. Listing of the species may impact military activities at Fort Lewis. For further information, contact the NMFS at (301) 713-1401.

#### **Miscellaneous:**

- **Notice: General Program Review.** The WDOE is conducting a review of the following administrative rules to determine their continuing need, effectiveness, efficiency, clarity, cost, and fairness. The rules include: State Waste Discharge Permit Program (Chapter 173-216 WAC); Underground Injection Control Program (Chapter 173-218 WAC); National Pollution Discharge Elimination System Permit Program (Chapter 173-220 WAC); and the Puget Sound Highway Runoff Program (Chapter 172-270 WAC). Contact the WDOE for additional information on these programs at (360) 407-6989.